

**REMARKS**

This Election and Amendment is in response to the Office Action of December 29, 2003 ("Office Action"). Claims 1-29 are pending. Claim 2 as well as previously withdrawn claims 30-35 have been canceled by virtue of the present Amendment. Claims 1, 3 and 22 have been amended. No new matter has been added. Examination of the claims in view of the foregoing Amendment and ensuing remarks is respectfully requested.

The Specification has been amended to include information relating to recently-issued U.S. Patents and to correct a typographical error with respect to U.S. patent application serial No. 08/541,470; in particular, at page 1 thereof.

Claim 1 has been amended to incorporate each of the limitations of the diffuser of claim 22. As amended, claim 1 describes a needle-less injector that includes a diffuser having an unobstructed air passage and at least one aerodynamic fin. Support for this amendment may be found throughout the Specification, and in claims 1 and 22, as originally filed.

Claim 3 has been amended to correct the dependency thereof. It had originally depended from claim 2, which has been canceled by virtue of the present amendment. As amended, claim 3 now depends from claim 1.

Claim 22 has been amended to more clearly describe that which Applicant considers to be his invention. As amended, claim 22 describes a diffuser, having an unobstructed air passage and at least one aerodynamic fin.

In the Office Action, Examiner restricted the application to one of two Groups of claims under 35 U.S.C. § 121: (I) Claims 1-21, drawn to a needle-less injector, and (II) Claims 22-29, drawn to a diffuser. Examiner noted that these aspects of Applicant's invention "*are related as combination and subcombination.*" He further noted that "*(1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations.*" Applicant hereby elects the claims of Group II for further prosecution. Notwithstanding the foregoing election, Applicant respectfully traverses this restriction requirement.

As amended, independent claim 1 (the Group I "combination" of a needle-less injector

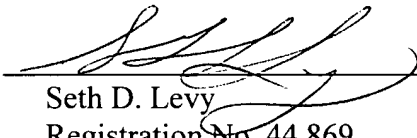
with a diffuser) now includes each of the limitations of the diffuser of claim 22 (the Group II "subcombination"). Thus, two-way distinctness can no longer be shown as between Groups I and II, as required by MPEP § 806.05(c). The combination as claimed now requires the particulars of the subcombination for patentability. In light of the present Amendment and the accompanying remarks, Applicant therefore respectfully requests withdrawal of the restriction requirement.

Applicant believes that the foregoing Amendment places the application in condition for allowance, and a favorable action is respectfully requested. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles telephone number (213) 488-7100 to discuss the steps necessary for placing the application in condition for allowance should the Examiner believe that such a telephone conference would advance prosecution of the application.

Respectfully submitted,  
PILLSBURY WINTHROP LLP

Date: January 12, 2004

By: \_\_\_\_\_

  
Seth D. Levy  
Registration No. 44,869  
Attorney for Applicant

725 South Figueroa Street, Suite 2800  
Los Angeles, CA 90017-5406  
Telephone: (213) 488-7100  
Facsimile: (213) 629-1033